

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LAUREN LEIBOWITZ,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

Civil Action No.
22-CV-9538

ORDER TO TRANSFER
VENUE

WHEREAS, Plaintiff LAUREN LEIBOWITZ (“Plaintiff”) commenced this tort action on November 8, 2022 by filing a complaint (“Complaint”) in United States District Court, Southern District of New York; and

WHEREAS, the Complaint alleges that Plaintiff sustained personal injuries pursuant to the Federal Tort Claims Act, 28 U.S.C. § 1346, and

WHEREAS, pursuant to 28 U.S.C. § 1402(b), “[a]ny civil action on a tort claim against the United States under subsection (b) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred,” and

WHEREAS, Plaintiff testified at her deposition on July 6, 2023 that she resides in both the Southern District of New York (“SDNY”) and the Eastern District of New York (“EDNY”) and that her primary residence is in Dix Hills, which is located in the EDNY; and

WHEREAS, the act or omission complained of in the Complaint occurred in the EDNY, and

WHEREAS, the Defendant contends that Plaintiff's primary residence and domicile is in the EDNY and as such, venue is improper in the SDNY,

WHEREAS, Plaintiff, without conceding any facts regarding residence, agrees to a venue change in an effort to avoid unnecessary motion practice, and

WHEREAS, the parties reserve all arguments, claims, and defenses related to the facts, circumstances, and events giving rise to the above-captioned action, including Plaintiff's arguments that Defendant may not assert arguments and/or defenses with respect to an improper venue defense or a statute of limitations defense once this matter is transferred to EDNY; and

WHEREAS, discovery remains outstanding, including but not limited to defendant depositions and defendant reserves its right to serve post-deposition demands; and

NOW, THEREFORE, upon the parties' agreement, IT IS HEREBY ORDERED that:

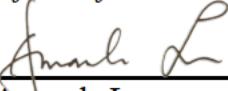
1. The above-captioned action is hereby transferred to the United States District Court for the Eastern District of New York, pursuant to 28 U.S.C. §§ 1402(b), 1406(a).
2. All of the parties' respective arguments, claims, and defenses related to the facts, circumstances, and events giving rise to the above-captioned action are hereby reserved, including Plaintiff's arguments that Defendant may not assert arguments and/or defenses with respect to an improper venue defense or a statute of limitations defense once this matter is transferred to EDNY.

Dated: New York City, New York
July 13, 2023

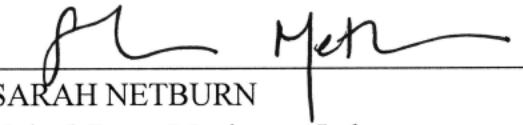
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SO ORDERED.


SARAH NETBURN
United States Magistrate Judge

Dated: July 17, 2023
New York, New York